



U.S. Department of Justice

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July 15, 2014

The Honorable Patricia J. Gorence
United States Magistrate Judge
Federal Courthouse # 264
517 East Wisconsin Avenue
Milwaukee, WI 53122

The Honorable Rudolph T. Randa
United States District Court Judge
Federal Courthouse #310
517 East Wisconsin Avenue
Milwaukee, WI 53122

Re: *United States v. Damian Patrick*, Case No. 13-Cr-234

Dear Judges Gorence and Randa,

This letter is in response to defendant Damian Patrick's Motion for Leave to File a Suppression Motion. Mr. Patrick is charged with being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). Until April 30, 2014, he was represented by Attorney Joseph Bugni. While represented by Attorney Bugni, Patrick filed a motion to suppress his arrest, arguing that it was not supported by probable cause. The motion was withdrawn because the evidence indicated that Patrick was arrested pursuant to a valid arrest warrant. Thereafter, Attorney Bugni withdrew from the case, and the court appointed Attorney Christopher Donovan to Mr. Patrick's case.

Mr. Patrick now seeks to file another suppression motion, alleging that his cellular telephone was tracked without a warrant. (Doc. #41). Notably, an order was issued which authorizes the tracking of the physical location of Patrick's phone. Ex. A. Patrick is essentially alleging that the warrant lacks probable cause. Although the government does not agree that this claim has any merit, Mr. Patrick raises an issue of constitutional import. Thus, the government respectfully requests that this matter be referred back to Magistrate Judge Gorence for further proceedings.

Patrick also requests another evidentiary hearing. However, inasmuch as he has not identified any disputed fact, a hearing is unnecessary. *See* Crim. L.R. 12 (E.D. Wis.). Although he argues that the law enforcement reports and testimony use various terms to refer to the source of information that lead to his arrest, (Mot. at 3), there is no dispute that this source was, in fact, location tracking data for Patrick's cellular telephone.

For the foregoing reasons, the government respectfully requests that Mr. Patrick's motion be referred to Judge Gorence for further proceedings. The government further requests that Judge Gorence set a briefing schedule to resolve Patrick's challenge to the sufficiency of the cellular telephone tracking order.

Respectfully submitted at Milwaukee, Wisconsin, this 15th day of July, 2014.

JAMES L. SANTELLE
United States Attorney

By: *s/ Bridget J. Domaszek*

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